IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION No.18374 of 1998

Between:

R.K Rajendra Prasad S/o R.Kalappa
R/o 4-799, Marata Stret ,
Greenspet, Chittoor Dist.

..... PETITIONER

AND

1 A.P. State Electricity Board rep by Member Secretary
Somajiguda , Hyderabad
2 The Chief engineer Disciplinary Cases
APSEB , Hyderabad
3 The Chief engineer Nellore Zone
APSEB , Nellore
4 The Suptt. Engineer APSEB
Tirupathi , Chittoor Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order one in the nature of writ of Mandamus declaring the action of the respondents in passing the Memo SE.O.TPT.PO.ADM. VI .F.SF D.no,.1061/96. dt 12-12-96 by the 4th respondent and confirmed by the NA(1)/96-2 dt 12-2-98 issued by the 1st respondent in Memo SE.NZ.NLR.PO.A.1/F.78/D.No.850/97 dt 25-3-97 and also memo CE (Disc .cases)DM-XX/641/NA(1)/96-2 dt 12-2-98 issued by the1st respondent as illegal, arbitrary, violative of Art.14, 16 and 21 of the constitution of India and consequently directing the respondents to set aside the orders passed by the 1st respondent in Memo CE/Disc.cases/DM.XX/641/Na(1)/962-2 dt.12-2-98 and the memo of the 3rd respondent dt 25-3-97 and memo dt 12-12-96 of the 4th respondent.

Counsel for the Petitioner: Mr. P.RATTAIAH

Counsel for respondents : Mr. S.Ravindranath

The Court made the following:

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JUDGMENT:

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This writ petition is filed questioning the Proceedings of the 4th respondent dated 12-12-1996, Memo dated 25-3-1997 of the 3rd respondent, Memo dated 12-2-1998 of the 1st respondent confirming the Proceedings dated 12-12-1996 of the 4th respondent as arbitrary and illegal.

The petitioner was engaged as a casual labourer in the erstwhile A.P.State Electricity Board for six months in the year 1981-82. Thereafter, his services were disengaged. He had obtained employment as a Constable in the Police Department of the State Government on 30-9-1985. While working as such, he was suspended from service on 1-7-1989. Thereafter, he left the services of the Police Department and did not participate in the disciplinary proceedings or was aware of the fact that he was removed from service for the misconduct alleged against him. During the interregnum, a scheme was evolved by the APSEB for absorption of ex-casual labour as LDC etc. Since the petitioner was eligible, he was considered and appointed as LDC with effect from 4-8-1989. At that time, he produced the attestation form enabling the authorities to send the same to the Intelligence Department for verification of his antecedents. He served as LDC for about 7 years. While so, a show cause notice dated 31-3-1996 was issued to the petitioner stating that on verification of the antecedents, it came to light that he was appointed as Police Constable in the Police Department and was removed from service for certain misconduct and asking his explanation as to why disciplinary action should not be taken against him, since he had suppressed as to his appointment in the Police Department. Petitioner submitted his explanation for the same. Having not satisfied with the explanation, though a detailed enquiry was not conducted as required under the Regulations of the respondent-Board, the petitioner was removed from service by the impugned Proceedings 12-12-1996 of the 4th respondent. Aggrieved by the same, the petitioner filed an appeal before the appellate authority. The appellate authority – 3rd respondent - by a cryptic order dated 25-3-1997 dismissed

the appeal.

Heard both sides and perused the entire material on record.

It is curious to note that the disciplinary authority, who passed the order of removal from service was one K.Ranganadham, Superintending Engineer, Operation, APSEB, Tirupathi. When the appeal was filed before the Chief Engineer, Nellore under Regulation 18 of APSEB (Discipline and Appeal) Regulations, the said Ranganadham became the Chief Engineer and he took up the appeal of the petitioner and dismissed the same. Admittedly, both the disciplinary authority and the appellate authority is one and the same person.

Learned standing counsel for the AP Transco appearing for the respondents submitted that no prejudice was caused to the petitioner, since the suppression of fact while submitting the attestation form for the purpose of appointment cannot be disputed.

In view of the factual position that the disciplinary authority, who passed the dismissal order against the petitioner sat over the appeal and rejected the same, I am of the opinion that the appellate authority sat as a judge for his own cause and violated the principles of natural justice. Whether there was a bias or no bias, the appellate authority (Sri K.Ranghnadham) ought not to have taken up the appeal and it would be simply made over to some other Chief Engineer or to a person of equal cadre after seeking advise of the respondent-Board. Such a course of action was not adopted. Therefore, the order passed by the appellate authority is illegal and does not stand the scrutiny of law.

Accordingly, the writ petition is allowed and the order dated 25-3-1997 of the appellate authority-3rd respondent is set aside. The appeal is remitted back for reconsideration by a person other than who disposed of it earlier. It is needless to mention that the said appeal shall be taken up and disposed of within a period of three months from the date of receipt of a copy of this order. No costs.

3rd August, 2004

Prk

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this third day of August Two thousand and four.

ASSISTANT REGISTRAR

/True copy/

SECTION OFFICER

To

1 The Member Secretary, A.P state Electricity Board, Vidyut Soudha, Somajiguda , Hyderabad
2 The Chief engineer Disciplinary Cases, APSEB, Vidyut Soudha, Somajiguda, Hyderabad .
3 The Chief engineer Nellore Zone, APSEB, Nellore.
4 The Superintending Engineer APSEB, Tirupathi , Chittoor Dist.